

## **REMARKS**

### **Status of the Claims**

Claims 2, 3, 5, 6 and 12-27 were pending and claims 2, 3, 5, 6, 12-14 and 16 were under active examination. By amendment herein, claim 2 now specifies that the claimed protein has at least 70% sequence identity to SEQ ID NO:1 (*see, e.g.*, page 2, lines 29-31 of the as-filed specification). No new matter is added as a result of this amendment, and, as indicated by the search already performed, no new search is necessitated by this amendment. Therefore entry thereof after final is appropriate. Claim 29 has been added to indicate the particular mutations formerly recited in claim 2. Thus, claims 2, 3, 5, 6, 12-27 and 29 are pending as shown above and claims 2, 3, 5, 6, 12-14, 16 and 29 are under active examination.

### **Restriction**

For the reasons noted herein, Glaser does not teach the particularly claimed subject matter, namely a protein exhibiting at least 70% identity to SEQ ID NO:1. As such, all of the claims share a special technical feature not taught or suggested by the prior art and unity of invention is present. Accordingly, all pending claims should be examined together.

### **Rejections/Objections Withdrawn**

The objection to claim 7 and the objections to the specification have been withdrawn. (Final Office Action, paragraph 3). In addition, the previous rejections under 35 U.S.C. § 101 and § 112 have also been withdrawn. *Id.*

### **35 U.S.C. § 102**

Previous claims 2, 3, 5, 6, 12-14 and 16 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Glaser et al.

As noted by the Examiner, the Glaser teaches a polypeptide that exhibits only 65.6% sequence identity to SEQ ID NO:1. Therefore, Glaser's polypeptide is excluded from the scope of the pending claims and withdrawal of the rejection is in order.

**CONCLUSION**

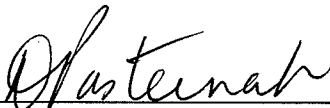
Applicants believe that the claimed subject matter is now in condition for allowance and early notification to that effect is respectfully requested. If any issues remain to be addressed, the Examiner is encouraged to telephone the undersigned.

Please direct all further communications regarding this application to:

Helen Lee  
NOVARTIS VACCINES AND DIAGNOSTICS, INC.  
Intellectual Property – X100B  
P. O. Box 8097  
Emeryville, CA 94662-8097  
Customer No: 27476

Respectfully submitted,

Date: June 1, 2011

By:   
Dahna S. Pasternak  
Registration No. 41,411  
Attorney for Applicant

NOVARTIS VACCINES AND DIAGNOSTICS, INC.  
Intellectual Property – X100B  
P. O. Box 8097  
Emeryville, CA 94662-8097  
Tel.: (650) 493-3400  
Fax: (650) 493-3440